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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)

AUG 22 2005

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)
) Amendment of Section 73.202(b),
) Table of Allotments,
) FM Broadcast Stations
) (Chillicothe, Dublin, Hillsboro and
) Marion, Ohio)
)

) MB Docket No. 02-266
) RM-10557

Federal Communications Commission
Office of Secretary

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To: Office of the Secretary
Attn: Media Bureau

REPLY TO OPPOSITION TO SUPPLEMENT

Citicasters Licenses, L.P. (licensee of Station WMRN-FM, Marion, Ohio and Clear Channel Broadcasting Licenses, Inc., licensee of Station WSRW-FM, Hillsboro, Ohio (jointly "Clear Channel"), by their counsel, hereby reply to the Opposition to Supplement filed on August 11, 2005, by the Committee for Competitive Columbus Radio (the "Committee"). The Committee incorrectly states that Clear Channel has "enlarged" the Columbus market in order to qualify for a fifth FM station in that market. In support hereof, Clear Channel states as follows:

1. On August 2, 2005, Clear Channel filed a Supplement in this proceeding to report that it had filed a Form 314 application for Commission approval to assign the license of Station WQIO(FM), Mt. Vernon, Ohio, to another party. 1/ In addition, Clear Channel reported that it had filed a Form 301 application for Station WMRN-FM to implement the *Report and Order* in this proceeding to serve Dublin, Ohio. 2/ By virtue of these two applications, Clear Channel will comply with Section 73.3555 of the Commission's Rules by owning the limit of five FM stations in a 45 station market.

1/ FCC File No. BALH-20050726ACU.

2/ FCC File No. BPH-20050726ALM.

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2. Nevertheless, the Committee argues that the number of stations in the Columbus market has been manipulated by Clear Channel to make the total number of stations reach 45. The Committee cites language at paragraph 278 of the Commission's 2003 *Ownership Order* 3/ which forbids a licensee from benefiting for two years from a "home" designation for a station that would not otherwise be listed in the market.

3. The Committee's reading of the *Ownership Order* is without merit. As the Commission explained at paragraph 279 of the *Ownership Order*, Arbitron designates as "home" those stations that are licensed to a community within the Arbitron Metro, as well as those stations determined to compete within the Metro. 4/ The FCC expressly stated that all commercial and noncommercial radio stations whose community of license are located within a Metro's geographic boundary are included in the radio market. 5/ The Commission specifically excluded from the two-year waiting period those stations whose community of license are located within the Metro. 6/ Here, there is no need for Clear Channel to request that WMRN-FM be designated as "home" to the Columbus market; Dublin, the community of license of WMRN-FM pursuant to the *Report and Order* in this proceeding, is located within the

3/ 2002 Biennial Regulatory Review - Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996, 18 FCC Rcd 13620, 13726 (2003) ("*Ownership Order*"), *aff'd in part and remanded in part*, *Prometheus Radio Project, et al. v. F.C.C.*, 373 F.3d 372 (2004), *stay modified on rehearing*, No. 03-3388 (3d Cir. Sept. 3, 2004), *cert. denied*, 73 U.S.L.W. 3466 (U.S. June 13, 2005) (Nos. 04-1020, 04-1033, 04-1036, 04-1045, 04-1168 and 04-1177).

4/ *Ownership Order*, 18 FCC Rcd at 13,726-27 [¶ 279].

5/ *Id.* at 13,727 [¶ 280].

6/ *Id.* at 13,726 [¶ 278] ("We also will not allow a party to receive the benefit of the inclusion of a radio station as "home" to a Metro unless such station's community of license is located within the Metro or such station has been considered home to that Metro for at least two years) (emphasis added).

established geographic boundaries of the Columbus Arbitron Metro, and therefore, by definition, is part of that market.

4. Nor is there any possibility here of “manipulation” of the market by Clear Channel. On February 12, 2002, Clear Channel filed its petition for rulemaking to change the community of license of Station WMRN-FM to specify Dublin, Ohio. This petition was filed more than a year before the Commission adopted the new market definition (which did not go into effect for another year after that due to the issuance of a stay by the U.S. Court of Appeals (3rd Circuit) of the new rules).^{7/} Clear Channel could not have been prescient enough in February 2002 to have selected a community based on the new rules and known that by doing so WMRN-FM would be included within the Columbus Arbitron Metro.

5. This case involves a station whose community of license has been changed by the Commission to a community which, by definition, is part of the Columbus market. The geographic boundaries of the market were not “enlarged” in order to include that station. The Committee misreads the cited language in paragraph 278 by assuming that adding a station means enlarging the market. That is clearly not the case. The Commission further confirmed that any station licensed to a community within the geographic bounds of the market is included in that market when it issued Worksheet #2 to Form 301 and Worksheet #3 to Form 314. Those Worksheets instruct that the number of stations within an Arbitron Metro: “Include all stations whose community of license is inside the boundaries of the counties that make up the Arbitron Metro. Also include stations outside the counties that make up the Arbitron Metro if they are reported by BIA as ‘home’ to that Metro.”^{8/} The Worksheets further clarify the point by stating

^{7/} *Prometheus Radio Project v. FCC*, No. 03-3388 (3d Cir. Sept. 3, 2004).

^{8/} Worksheet #2 to Form 301 and Worksheet #3 to Form 314 at Footnote 2.

that: "applicants may not rely on the inclusion of a radio station as 'home' to a Metro unless (a) such station was listed by BIA as 'home' to the Metro as of September 3, 2004, or (b) such 'home' designation has been in effect for at least two years, or (c) such station's community of license is located within the Metro." 9/ Here, Dublin, Ohio is located in Franklin County which is, and has been for well over two years, a Columbus Arbitron Metro county. 10/ Therefore the boundaries of the market have not been expanded to include WMRN-FM, and as instructed by the Worksheets, WRMN-FM is properly included in the count of stations within the Columbus Arbitron Metro market.11/

Accordingly, there is no question that WMRN-FM, whose community of license as specified in the *Report and Order* in this proceeding is located in Franklin County, must be included in the Columbus Arbitron Metro market for purposes of compliance with Section 73.3555 of the Commission's Rules. The Commission should promptly dismiss or deny the Committee's Petition for Reconsideration.

9/ Worksheet #2 to Form 301 and Worksheet #3 to Form 314 at Footnote 2.

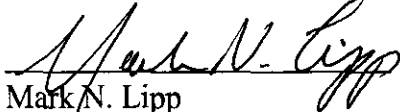
10/ *Id.* at 3 (paragraph 3) (emphasis added).

11/ A more detailed discussion of Clear Channel's compliance with Section 73.3555 of the Commission's Rules is contained in an exhibit to the Form 301 application that Clear Channel filed to implement the *Report and Order* in this proceeding. A copy of this exhibit is attached hereto as Attachment 1.

Respectfully submitted,

CITICASTERS LICENSES, L.P.

CLEAR CHANNEL BROADCASTING LICENSES, INC.

By: 
Mark N. Lipp
Scott Woodworth
Vinson & Elkins L.L.P.
1455 Pennsylvania Ave, NW, Suite 600
Washington, DC 20004-1008
(202) 639-6500

Their Counsel

August 22, 2005

ATTACHMENT 1

TECHNICAL STATEMENT
RADIO MULTIPLE OWNERSHIP ANALYSIS
CITICASTERS LICENSES, L.P.

This statement and the attached figures were prepared on behalf of Citicasters Licenses, L.P. ("CLLP"), a licensee subsidiary of Clear Channel Communications, Inc. ("CCC"). CLLP proposes to modify the facilities of WMRN-FM, Dublin, OH. A multiple ownership analysis was prepared considering the following radio stations under present or proposed common ownership, time brokerage or joint sales.¹

Table 1: Proposed Commonly Owned, Brokered or Jointly-Sold Stations
Studied and Associated Arbitron Metro² Information

Call	Freq	Band	Community	County	State	Arbitron Metro	Arbitron Metro
WMRN-FM	40170	FM	Dublin	Franklin	OH	Columbus, OH	Columbus, OH
WCOL-FM	25037	FM	Columbus	Franklin	OH	Columbus, OH	Columbus, OH
WFJX	64716	FM	Hilliard	Franklin	OH	Columbus, OH	Columbus, OH
WLZT	52042	FM	Ashville	Pickaway	OH	Columbus, OH	Columbus, OH
WNCI	47741	FM	Columbus	Franklin	OH	Columbus, OH	Columbus, OH
WTPG	25038	AM	Columbus	Franklin	OH	Columbus, OH	Columbus, OH
WTVN	11269	AM	Columbus	Franklin	OH	Columbus, OH	Columbus, OH

Since certain of these stations have overlapping principal community contours (5 mV/m for AM stations, 3.16 mV/m for FM stations), or are located in, or home to, the same Arbitron Metro Markets, an ownership study has been prepared in accordance with the Federal Communications Commission's local radio ownership rule.³

CCC does not have an attributable interest in any other station with a principal community contour that overlaps or intersects the principal community contour of WMRN-FM as proposed, or which is located in the same Arbitron Metro⁴ as WMRN-FM).⁵ The community of license of WMRN-FM has been

¹ None of the following stations are attributable by virtue of a time brokerage agreement or joint sales agreement.

² Arbitron data presented herein is obtained from BIA's "Media Access Pro."

³ See 47 C.F.R. § 73.3555(a).

⁴ A station is considered to be "located in an Arbitron Metro" if the station's community of license is located within the boundaries of that Metro, or, the station is listed as "Home" to that Metro by BIA.

⁵ WQIO(FM), Mount Vernon, Ohio, which is presently licensed to an affiliate of CLLP, and which is in the Columbus, Ohio Arbitron Metro, is being sold to a

modified by "Report and Order," DA 05-764 in MB Docket No. 02-266 (released March 25, 2005) from Marion, Ohio to Dublin, Ohio. Dublin, Ohio is located in Franklin County, Ohio which is within the Columbus, OH Arbitron Metro. Columbus, OH will also be the declared "Home" Arbitron Metro for WMRN-FM, Dublin, OH. Contour overlap of WMRN-FM as modified, as depicted in Figure 1, also occurs with commonly-owned stations whose communities of license are located in the Columbus, OH Arbitron Metro market.

Arbitron Market Study

WMRN-FM is relocating to the Columbus, OH Arbitron Metro. With the sale of WQIO(FM) (see footnote 5), this proposal is in compliance with the local radio ownership rules for that Arbitron Metro, as evidenced by Table 2 below:

Table 2 - Stations Considered to be in the
Columbus, OH Arbitron Metro⁶

Count	Calls	Fac ID	Band	Owner	Status ⁷	Community	County	
1	WJJE	91080	FM	American Family Association Incorporated	b	Delaware	Delaware	OH
2	WLRY	86826	FM	Arcangel Broadcasting Foundation	b	Rushville	Fairfield	OH
3	WCVO	11138	FM	Christian Voice of Central Ohio, Inc	b	Gahanna	Franklin	OH
4	WMRN-FM	40170	FM	Clear Channel Communications	g	Dublin	Franklin	OH
5	WCOL-FM	25037	FM	Clear Channel Communications	b	Columbus	Franklin	OH
6	WFJX	64716	FM	Clear Channel Communications	b	Hilliard	Franklin	OH
7	WLZT	52042	FM	Clear Channel Communications	b	Ashville	Pickaway	OH
8	WNCI	47741	FM	Clear Channel Communications	b	Columbus	Franklin	OH
9	WQIO	74475	FM	XXXXXXXXXXXXXXXXXXXXX	a	Mount Vernon	Knox	OH
10	WTPG	25038	AM	Clear Channel Communications	b	Columbus	Franklin	OH
11	WTVN	11269	AM	Clear Channel Communications	b	Columbus	Franklin	OH
12	WCBE	4325	FM	Columbus City School District	b	Columbus	Franklin	OH
13	WDUB	16595	FM	Denison University	b	Granville	Licking	OH
14	WBNS	54901	AM	RadioOhio Inc.	b	Columbus	Franklin	OH

third party. See FCC File No. BALH-2005726ACU. The modification of WMRN-FM is subject to the consummation of such sale.

⁶ Source: BIA, with modification to reflect the addition to the market of WMRN-FM and the pending sale of WQIO(FM).

⁷ Status: "a" -- the station is reported by BIA as "Home" to this Arbitron Metro; "g" -- the station's community of license is located within the geographic boundaries of this Arbitron Metro; "b" -- the station is both listed by BIA as "Home" to this Arbitron Metro, and its community of license is located in this Arbitron Metro.

15	WBNS-FM	54701	FM	RadioOhio Inc.	b	Columbus	Franklin	OH
16	WLOH	73217	AM	Frontier Broadcasting LLC	b	Lancaster	Fairfield	OH
17	WUCO	29636	AM	Frontier Broadcasting LLC	b	Marysville	Union	OH
18	WWCD	28644	FM	Ingleside Radio Inc	b	Grove City	Franklin	OH
19	WFCO	36478	FM	Lancaster Education Broadcasting Foundation	b	Lancaster	Fairfield	OH
20	WBZX	49107	FM	North American Broadcasting Company	b	Columbus	Franklin	OH
21	WMNI	49110	AM	North American Broadcasting Company	b	Columbus	Franklin	OH
22	WTDA	60099	FM	North American Broadcasting Company	b	Westerville	Franklin	OH
23	WOSU	66186	AM	Ohio State University	b	Columbus	Franklin	OH
24	WOSU-FM	66191	FM	Ohio State University	b	Columbus	Franklin	OH
25	WSLN	50151	FM	Ohio Wesleyan University	b	Delaware	Delaware	OH
26	WOBN	50761	FM	Otterbein College	b	Westerville	Franklin	OH
27	WCKX	27645	FM	Radio One Inc	b	Columbus	Franklin	OH
28	WJYD	63949	FM	Radio One Inc	b	London	Madison	OH
29	WXMJ	73972	FM	Radio One Inc	b	Upper Arlington	Franklin	OH
30	WHTH	57937	AM	Runnymede Corp	b	Heath	Licking	OH
31	WNKO	57936	FM	Runnymede Corp	b	Newark	Licking	OH
32	WJZA	60590	FM	Saga Communications Inc	b	Lancaster	Fairfield	OH
33	WJZK	30563	FM	Saga Communications Inc	b	Richwood	Union	OH
34	WODB	54556	FM	Saga Communications Inc	b	Delaware	Delaware	OH
35	WSNY	22339	FM	Saga Communications Inc	b	Columbus	Franklin	OH
36	WRFD	58630	AM	Salem Communications Corporation	b	Columbus- Worthington	Franklin	OH
37	WUFM	20758	FM	Spirit Communications	b	Columbus	Franklin	OH
38	WXOL	54557	AM	Fifteen Fifty Corporation	b	Westerville	Delaware	OH
39	WVVO	22341	AM	Stop 26-Riverbend Incorporated	b	Columbus	Franklin	OH
40	WVVO-FM	58633	FM	Stop 26-Riverbend Incorporated	b	Johnstown	Licking	OH
41	WAZU	64717	FM	Infinity Broadcasting	b	Circleville	Pickaway	OH
42	WHOK-FM	72311	FM	Infinity Broadcasting	b	Lancaster	Fairfield	OH
43	WLVQ	11277	FM	Infinity Broadcasting	b	Columbus	Franklin	OH
44	WCLT	71284	AM	WCLT Radio Inc	b	Newark	Licking	OH
45	WCLT-FM	71285	FM	WCLT Radio Inc	b	Newark	Licking	OH

Interim Contour-Overlap Analysis

Because the principal community of the station to be modified, and the communities of all commonly-owned or attributable stations with overlapping principal contours with the station to be modified, are located inside an Arbitron Metro, an interim contour-overlap analysis is not required.

Conclusions

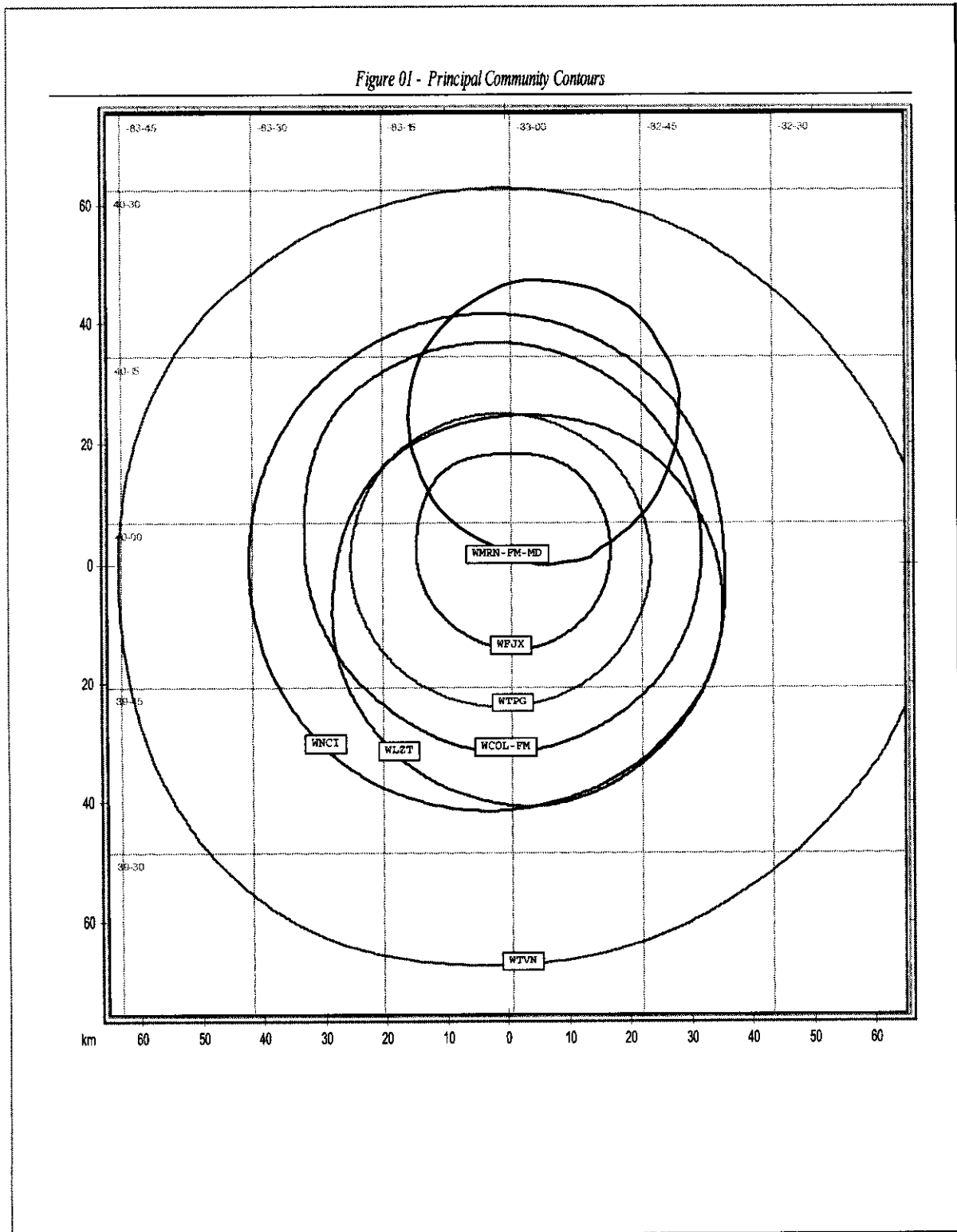
In the Arbitron Radio Market studied herein, there will be at least 45 radio stations, including the subject commonly-owned 2-AM / 5-FM stations, which are home to the Columbus, OH Metro.

Based on the above, with sale of WQIO(FM), it is concluded that the proposed modification complies with Section 73.3555(a) of the FCC Rules.

Respectfully submitted,

Troy G. Langham
FCC Engineering Supervisor
July 26, 2005

Figure 1



CERTIFICATE OF SERVICE

I, Scott Woodworth, in the law firm of Vinson & Elkins, do hereby certify that I have on this 22nd day of August, 2005, caused to be mailed by first class mail, postage prepaid, copies of the foregoing "**Reply to Opposition to Supplement**" to the following:

*Peter H. Doyle
Chief, Audio Division, Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

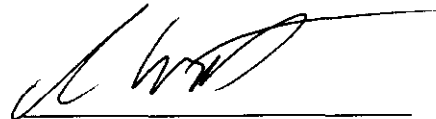
*John A. Karousos
Assistant Chief, Audio Division, Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

*R. Barthen Gorman
Audio Division, Media Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Lauren A. Colby
Law Office of Lauren A. Colby
10 East 4th Street
P.O. Box 113
Frederick, MD 21701
(*Counsel to The Committee for Competitive Columbus Radio*)

Jerrold D. Miller
Miller and Neely, PC
6900 Wisconsin Avenue
Suite 704
Bethesda, MD 20815
(*Counsel to Sandyworld, Inc.*)

Dennis Corbett
Leventhal Senter & Lerman PLLC
2000 K Street, NW
Suite 600
Washington DC 20006
(*Counsel to Infinity Broadcasting Operations, Inc.*)

A handwritten signature in black ink, appearing to read 'S. Woodworth', written over a horizontal line.

Scott Woodworth

* HAND DELIVERED